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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,620	10/03/2003	Charles T. Trantham	8469-001	9401

7590 02/07/2005

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EXAMINER

DEVORE, PETER T

ART UNIT PAPER NUMBER

3751

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,620

Applicant(s)

TRANHAM, CHARLES T.

Examiner

Peter T deVore

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30 is/are allowed.
- 6) ☐ Claim(s) 1-18, 20-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) ☐ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) ☐ Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

DETAILED ACTION

Election/Restrictions

Claim 19 remains withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/14/04.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6, 9-13, 21, 22, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Blackburn.

The Blackburn reference discloses an assembly comprising a plastic housing 10 (see col. 2, lines 59-61), inlets (22 and 24), a drainage shaft 12, an outlet (bottom end of drainage shaft in Figure 1), a base 14, slots (which fasteners 18 reside in), and wherein inlet 24 is capable of receiving an outlet of an additional housing.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn.

Regarding claim 2, The Blackburn reference discloses an assembly as discussed supra which is optionally made of plastic (see col. 2, lines 58-60), but remains silent as to how the assembly is fabricated. However, the Examiner takes Official Notice that it is well known in the art to injection mold plastic components and it therefore would have been obvious to injection mold the housing wherein so doing amounts to mere selection of one functionally equivalent plastic component fabrication method over another within the art and the selection of any of plastic component fabrication methods would work equally well with the Blackburn assembly.

Regarding claim 14, The Blackburn reference discloses an assembly as discussed supra which is optionally made of metal (see col. 2, lines 58-60), but remains silent as to how the assembly is assembled. However, the Examiner takes Official Notice that it is well known in the art to attach two metal parts via a weld and it therefore would have been obvious to attach the base to the housing via a weld (if not already) wherein so doing amounts to mere selection of one functionally equivalent metal attachment mechanism over another within the art and the selection of any of these metal attachment mechanisms would work equally well with the Blackburn assembly.

Claims 4, 5, 8, 15-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn in view of Harp.

Regarding claims 4, 5, and 8, the Blackburn reference discloses an assembly as discussed supra, but does not disclose that the shafts are tapered. However, attention is directed to the Harp reference, which discloses a similar assembly wherein the shafts are tapered (see Figure 3) for improved drainage flow through the shafts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to taper the shafts of the Blackburn device in view of Harp for improved drainage flow through the shafts.

Regarding claims 15-18 and 20, the Blackburn reference discloses an assembly as discussed supra, but does not disclose L-shaped support arms. However, attention is directed to the Harp reference, which discloses a similar assembly including L-shaped support arms 12 for additional support of the containers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ L-shaped support arms on the Blackburn device in view of Harp for additional support of the containers.

Claims 7, 23-25, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn in view of Koberg.

The Blackburn reference discloses an assembly as discussed supra, but does not disclose caps closing the shafts. However, attention is directed to the Koberg reference, which discloses a similar assembly wherein the shafts are covered by covers 50 to prevent contamination from unused shafts. It would have been obvious to one of ordinary skill in the art at the time the invention was made employ covers on the shafts

of the Blackburn assembly in view of Koberg to prevent contamination from unused shafts.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn in view of Harp and Kolberg.

The Blackburn reference discloses an assembly as discussed supra, but does not disclose removable caps, tapered shafts, or supports. However, it would have been obvious to employ removable caps, tapered shafts, and supports on the Blackburn device in view of Harp and Kolberg for the reasons discussed supra.

Allowable Subject Matter

Claim 30 is allowed.

Response to Arguments

Applicant's arguments filed 12/14/04 have been fully considered but they are not persuasive. In response to applicant's argument that the Blackburn reference does not collect contaminate-free motor oil or isn't stackable, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458,

459 (CCPA 1963). In this case, the Blackburn device is fully capable of collecting contaminate-free oil, and also appears to be stackable in a manner similar to that of the instant application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

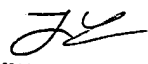
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T deVore whose telephone number is (571) 272-4884. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PdPd


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
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2/4/05